Calendar No. 973

99TH CONGRESS
2d Session

SENATE

REPORT
99-481

PROTECTION OF TROPICAL FORESTS

SEPTEMBER 23 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. LUGAR, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany H.R. 2957]

The Committee on Foreign Relations to which was referred the bill (H.R. 2957) to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of this legislation is to amend the Foreign Assistance Act of 1961 to add a new section 118 which replaces existing section 118(d) to provide for expanded and diversified U.S. assistance for the conservation and sustainable management of tropical forests and to discourage actions known to cause unnecessary forest destruction.

MAJOR PROVISIONS

The bill strengthens the provisions in the Foreign Assistance Act relating to tropical deforestation. The revised section 118 directs the President to take various steps to place a high priority on conservation and sustainable management of tropical forests and to engage in dialog with recipient countries to help those countries focus on policies which contribute to deforestation. The bill establishes new requirements for denial of foreign assistance for specified activities which run counter to the intention of section 118 as revised. Additionally, the bill directs that non-governmental entities be used in implementing activities pursuant to section 118 and

71-010 O

S383-8

establishes a new requirement that AID country plans specifically address the conservation and management of tropical forests.

Committee Action

The committee held a hearing on the issues of international biological diversity and tropical deforestation on March 19, 1986. The following witnesses testified:

Senator William Roth, Jr.;

Ms. Susan Shen, Project Director, Office of Technology Assessment;

Dr. Nyle Brady, Senior Assistant Administrator, Bureau for Science and Technology, Agency for International Development;

Mr. Russell Train, Chairman, World Wildlife Fund-U.S./The Conservation Foundation;

Mr. Peter Seligmann, Executive Director, The Nature Conservancy International Programs;

The Honorable Andrew Maguire, Vice President for Policy Affairs, World Resources Institute;

Ms. Fran L. Spivy-Weber, Director, International Issues, National Audubon Society.

On September 9, 1986, the committee met to consider legislation relating to tropical deforestation pending before the committee: S. 1747, legislation introduced by Senator Roth, and H.R. 2957, a bill which passed the House of Representatives on June 3, 1986. Although the Administration had earlier stated its opposition to the original version of the legislation, the bill pending before the Foreign Relations Committee had been modified during House Foreign Affairs Committee consideration of the legislation in order to address Administration objections.

During the September 9 markup, Senator Evans offered a technical amendment to correct a typographical error in the text of the House-passed bill. The committee adopted the amendment and ordered the bill to be reported favorably to the Senate by a vote of 16 to 0. Voting in the affirmative were Senators Lugar, Helms, Mathias, Boschwitz, Pressler, Murkowski, Trible, Evans, Pell, Biden, Sarbanes, Zorinsky, Cranston, Dodd, Eagleton and Kerry.

Background

Existing section 118(d) of the Foreign Assistance Act, as amended in 1981, declares that tropical forests constitute a major world resource and emphasizes the importance of forests and tree cover to developing countries. The section notes that the loss of tropical forests is accelerating, resulting in shortages of wood—especially wood for fuel; siltation of lakes, reservoirs, and irrigation systems; floods, destruction of indigenous peoples; extinction of plant and animal species; loss of genetic resources; reduced capacity for food production; desertification; and contributing to destabilization of the Earth's climate.

Existing section 118(d) directs the President to consider the recommendations of the U.S. Interagency Task Force on Tropical Forests in formulating and implementing development assistance programs, and calls on the president to instruct U.S. representatives

to international organizations to give higher priority to tropical deforestation problems and to improve cooperation among these organizations in regard to tropical forests.

Committee Comments

In considering the issue of tropical deforestation and the related issue of biological diversity, the committee would like to note its concern about the alarming rate of loss of habitat and the resultant loss of species. According to some estimates, 20 percent of all species could be lost in the next century. The rate of loss is particularly acute in tropical environments where species-rich forests are rapidly disappearing.

This loss has both environmental and economic consequences. The loss of forest cover affects watersheds, can cause serious erosion problems and, on a large scale, can alter the climate. Deforestation is the principal cause of desertification.

Tropical forests area major world resource and the importance of forests and tree cover to developing countries is often ignored. This legislation directs the Agency for International Development (AID) to place a high priority on the conservation and sustainable management of tropical forests and to increase assistance to developing countries regarding these resources. It also directs AID not to support certain types of activities that destroy or degrade forest resources, unless strict criteria are met.

Although no additional funds are required, this legislation significantly strengthens the policy and procedures of our foreign assistance programs in addressing this crucial issue.

The committee notes that tropical deforestation and the resultant loss of biological diversity are critical issues, not only for developing countries but also for the United States as well. The extinction of species and their replacement by others is part of the evolutionary dynamic, but the balance between loss and replacement seems to have changed. The present rate of destruction and degradation of tropical forests and estimated extinction rates clearly indicate that human activity is causing a fundamental change in the Earth's biota and its capacity to respond to change. The committee supports the need to act to restore that balance and supports this legislation as a positive step toward that end.

New section 118(e) requires AID country development strategy statements (CDSSs) or other country plans to include an analysis of actions necessary in that country to improve management of tropical forests. This section is intended to stimulate AID Mission consideration of major needs for the management of tropical forests in developing countries and to help set priorities for the allocation of AID funds. The committee intends that application of this requirement apply only to those countries with relevant tropical forest conditions.

The committee intends that analyses required by section 118(e) will provide a summary of major forest management issues, rather than a detailed technical assessment, in each country to which the requirement applies. For many developing nations, detailed technical assessments have already been developed either by the country government or by indigenous or international non-governmental

organizations, such as the Nature Conservancy, International Union for the Conservation of Nature, and the World Wildlife Fund, or by other institutions such as the Food and Agriculture Organization and United Nations Environment Program. Each Mission should review and consider existing technical assessments from such sources as a basis for formulating their CDSS or country plan analyses. Missions may determine whether these plans could usefully be incorporated by reference into the CDSS or country plan.

In determining the level of detail with which each CDSS or country plan is to consider tropical forest management issues, the committee expects AID Missions to exercise discretion on a country-by-country basis, taking into account the complexity and severity of forest management problems in that country, the development priorities of the host country and practicality of implementing forest management programs in that country, and the availability and adequacy of pre-existing assessments. The CDSS or country plan analyses should be prepared in the normal course of plan revisions, except in those countries that AID views as raising especially urgent forest management issues. In these priority cases, the analyses should be completed within the next 2 years.

Section-by-Section Analysis

H.R. 2957, as reported to the Senate, redesignates current section 118 (a), (b) and (c) as new section 117 of the Foreign Assistance Act; redesignates current section 118(d) as new section 118(a) with some minor changes; and adds new section 118(c), section 118(d), section 118(e), and section 118(f).

New section 118(c), which contains 15 paragraphs, directs the President to take various steps to place a high priority on conservation and sustainable management of tropical forests and to focus on policies which contribute to deforestation. The section calls for support for a variety of projects and activities to limit deforestation and to encourage conservation, to increase the awareness of other U.S. agencies and other donors in the value of tropical forests, and to utilize all relevant U.S. Government resources. The section further requires that any program or project which significantly affects tropical forests be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and take full account of the environmental impacts as provided for in AID's environmental procedures. Finally, the section establishes requirements for denial of funds for certain types of activities that destroy or degrade forest resources, unless strict criteria are met.

New section 118(d) directs that whenever feasible, projects to carry out this section should be managed by private and voluntary organizations or other nongovernmental organizations active in the country where the project is located.

New section 118(e) requires that country plans prepared by AID include an analysis of actions necessary to improve management of tropical forests and the extent to which actions proposed for AID support meet the needs thus identified. The committee intends that application of this requirement apply only to those countries with relevant tropical forest conditions.

New section 118(f) requires an annual report.

Cost Estimate

Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate requires that committee reports or bills or joint resolutions contain a cost estimate for such legislation in the fiscal year it is reported and in each of the following 5 years. The Congressional Budget Office has prepared the following estimate for this bill.

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 22, 1986.

Hon. Richard Lugar,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2957, to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries, as ordered reported by the Senate Committee on Foreign Relations on September 9, 1986.

This bill expresses the concern of the Congress over the destruction of tropical forests in developing countries, and directs the President to place a high priority on conservation and sustainable management of tropical forests when providing assistance to developing countries. Because no authorizations of additional appropriations are included in the bill, it is expected that no additional cost to the government will be incurred as a result of enactment of this legislation.

With best wishes,
Sincerely,

Rudolph G. Penner, *Director.*

Evaulation of Regulatory Impact

In accordance with Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the Committee has concluded that there is no regulatory impact from this legislation.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

The Foreign Assistance Act of 1961, as Amended

* * * * * * *

PART I

Chapter 1—Policy; Development Assistance Authorizations

Sec. 101 [3] General Policy.—(a) * * *

* * * * * * *

Sec. [118.] *117.* Environment and Natural Resources.—(a) The Congress finds that if current trends in the degradation of natural resources in developing countries continue, they will severely undermine the best efforts to meet basic human needs, to achieve sustained economic growth, and to prevent international tension and conflict. The Congress also finds that the world faces enormous, urgent, and complex problems, with respect to natural resources, which require new forms of cooperation between the United States and developing countries to prevent such problems from becoming unmanageable. It is, therefore, in the economic and security interests of the United States to provide leadership both in thoroughly reassessing policies relating to natural resources and the environment, and in cooperating extensively with developing countries in order to achieve environmentally sound development.

* * * * * * *

[(d)(1) In enacting section 103(b)(3) of this Act the Congress recognized the importance of frost and tree cover to the developing countries. The Congress is particularly concerned about the continuing and accelerating alteration, destruction, and loss of tropical forest in developing countries. Tropical forests constitute a major world resource. Their destruction and loss pose a serious threat to development and the environment to developing countries. Tropical forest destruction and loss result in shortages of wood, especially wood for fuel; siltation of lakes, reservoirs and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production, and loss of genetic resources; and can result in desertification and in destabilization of the earth's climate. Properly managed tropical forests provide a sustained source of fiber and the other commodities essential to the economic growth of developing countries.

[(2) The concerns expressed in paragraph (1) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be considered by the President—

[(A) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities, and

[(B) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

[(3) It is the sense of the Congress that the President should instruct the representatives of the United States to the United Nations and to other appropriate international organizations to urge—

[(A) that higher priority be given in the programs of these organizations to the problems of tropical forest alteration and loss, and

[(B) that there be improved cooperation and coordination among these organizations with respect to tropical forest activities.]

Sec. 118. Tropical Forests.—(a) IMPORTANCE OF FORESTS AND TREE COVER.—In enacting section 103(b)(3) of this Act the Congress recognized the importance of forests and tree cover to the developing countries. The Congress is particularly concerned about the continuing and accelerating alteration, destruction, and loss of tropical forests in developing countries, which pose a serious threat to development and the environment. Tropical forest destruction and loss—

(1) result in shortages of wood, especially wood for fuel; loss of biologically productive wetlands; siltation of lakes, reservoirs, and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production; and loss of genetic resources; and

(2) can result in desertification and destabilization of the earth's climate.

Properly managed tropical forests provide a sustained flow of resources essential to the economic growth of developing countries, as well as genetic resources of value to developed and developing countries alike.

(b) PRIORITIES.—The concerns expressed in subsection (a) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be given high priority by the President—

(1) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities; and

(2) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

(c) ASSISTANCE TO DEVELOPING COUNTRIES.—In providing assistance to developing countries, the President shall do the following:

(1) Place a high priority on conservation and sustainable management of tropical forests.

(2) To the fullest extent feasible, engage in dialogues and exchanges of information with recipient countries—

(A) which stress the importance of conserving and sustainably managing forest resources for the long-term economic benefit of those countries, as well as the irreversible losses associated with forest destruction, and

(B) which identify the focus on policies of those countries which directly or indirectly contribute to deforestation.

(3) To the fullest extent feasible, support projects and activities—

(A) which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and

(B) which help developing countries identify and implement alternatives to colonizing forested areas.

(4) To the fullest extent feasible, support training programs, educational efforts, and the establishment or strengthening of institutions which increase the capacity of developing countries

to formulate forest policies, engage in relevant land-use planning, and otherwise improve the management of their forests.

(5) To the fullest extent feasible, help end destructive slash-and-burn agriculture by supporting stable and productive farming practices in areas already cleared or degraded and on lands which inevitably will be settled, with special emphasis on demonstrating the feasibility of agroforestry and other techniques which use technologies and methods suited to the local environment and traditional agricultural techniques and feature close consultation with and involvement of local people.

(6) To the fullest extent feasible, help conserve forests which have not yet been degraded, by helping to increase production on lands already cleared or degraded through support of reforestation, fuelwood, and other sustainable forestry projects and practices, making sure that local people are involved at all stages of project design and implementation.

(7) To the fullest extent feasible, support projects and other activities to conserve forested watersheds and rehabilitate those which have been deforested, making sure that local people are involved at all stages of project design and implementation.

(8) To the fullest extent feasible, support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing, including reforestation, soil conservation, and other activities to rehabilitate degraded forest lands.

(9) To the fullest extent feasible, support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation, including research in agroforestry, sustainable management of natural forests, small-scale farms and gardens, small-scale animal husbandry, wider application of adopted traditional practices, and suitable crops and crop combinations.

(10) To the fullest extent feasible, conserve biological diversity in forest areas by—

(A) supporting and cooperating with United States Government agencies, other donors (both bilateral and multilateral), and other appropriate governments, intergovernmental, and nongovernmental organizations in efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis;

(B) whenever appropriate, making the establishment of protected areas a condition of support for activities involving forest clearance or degradation; and

(C) helping developing countries identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas.

(11) To the fullest extent feasible, engage in efforts to increase the awareness of United States Government agencies and other donors, both bilateral and multilateral, of the immediate and long-term value of tropical forests.

(12) To the fullest extent feasible, utilize the resources and abilities of all relevant United States Government agencies.

(13) Require that any program or project under this chapter significantly affecting tropical forests (including projects involving the planting of exotic plant species)—

(A) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and

(B) take full account of the environmental impacts of the proposed activities on biological diversity,

as provided for in the environmental procedures of the Agency for International Development.

(14) Deny assistance under this chapter for—

(A) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction and that the proposed activity will produce positive economic benefits and sustainable forest management systems; and

(B) actions which significantly degrade national parks or similar protected areas which contain tropical forests or introduce exotic plants or animals into such areas.

(15) Deny assistance under this chapter for the following activities unless an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development:

(A) Activities which would result in the conversion of forest lands to the rearing of livestock.

(B) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands.

(C) The colonization of forest lands.

(D) The construction of dams or other water control substances which flood relatively undegraded forest lands.

(d) PVO's AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the President shall accomplish the objectives of this section through projects managed by private and voluntary organizations or international, regional, or national nongovernmental organizations which are active in the region or country where the project is located.

(e) COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to achieve conservation and sustainable management of tropical forests, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(f) ANNUAL REPORT.—Each annual report required by section 634(a) of this Act shall include a report on the implementation of this section.

○

Calendar No. 974

99TH CONGRESS
2d Session

SENATE

REPORT
99-482

PROTECTION OF BIOLOGICAL DIVERSITY

SEPTEMBER 23 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. LUGAR, from the Committee on Foreign Relations, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2958]

The Committee on Foreign Relations, to which was referred the bill (H.R. 2958) to amend the Foreign Assistance Act of 1961 to protect biological diversity in developing countries, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE

The purpose of this legislation is to amend Section 119 of the Foreign Assistance Act to strengthen provisions relating to implementing policy concerning conservation of biological diversity and to require minimum funding levels for biological diversity activities in fiscal years 1987, 1988 and 1989.

MAJOR PROVISIONS

The bill authorizes not less than $2.5 million for fiscal year 1987, not less than $5 million for fiscal year 1988, and not less than $10 million for fiscal year 1989 of development assistance funding be used to carry out activities authorized in section 119 to conserve biological diversity. In addition, the bill adds several new subsections which require that country development strategy statements or other country plans prepared by the Agency for International Development (AID) include biological diversity analyses, that section

71-006 O

S383-9

119 projects include consultation with the local populace at all stages, that where feasible such projects be implemented through various nongovernmental entities, and, finally, the bill establishes a series of specific requirements for AID relating to biological diversity conservation activities. These new requirements include a variety of mechanisms designed to increase consultation and cooperation in order to broaden the entire approach to addressing the issue of biological diversity within the context of foreign assistance.

COMMITTEE ACTION

The committee held a hearing on the issue of international biological diversity and tropical deforestation on March 19, 1986. The following witnesses testified:

Senator William V. Roth, Jr.;

Ms. Susan Shen, Project Director, Office of Technology Assessment;

Dr. Nyle C. Brady, Senior Assistant Administrator, Bureau for Science and Technology, Agency for International Development;

Mr. Russell Train, Chairman, World Wildlife Fund—U.S./ The Conservation Foundation;

Mr. Peter Seligmann, Executive Director, The Nature Conservancy International Programs;

The Honorable Andrew Maguire, Vice President for Policy Affairs, World Resources Institute; and

Ms. Fran L. Spivy-Weber, Director, International Issues, National Audubon Society.

On September 9, 1986, the committee met to consider legislation relating to biological diversity pending before the committee: S. 1748, legislation introduced by Senator Roth, and H.R. 2958, a bill which passed the House of Representatives on June 3, 1986. Although the Administration had earlier stated its opposition to the original version of the legislation, the bill pending before the Foreign Relations Committee had been modified during House Foreign Affairs Committee consideration of the legislation in order to address Administration objections, but still contained a provision for a permanent earmark of $10 million annually for new biological diversity projects.

During the September 9 committee markup of H.R. 2958, Senators Lugar, Evans and Pell addressed the issue of the earmark by proposing a phased-in earmark which would increase funding over a 3 year period to arrive at the House-supported level of $10 million by fiscal year 1989. The amendment retained the major provisions of the House-passed bill with the exception of the modified funding requirement.

In offering the Evans-Lugar-Pell amendment incorporating this phased-in approach, Senator Evans reiterated concerns which he had expressed many times before to the committee about the inadvisability of earmarking and micromanaging in legislation. He also emphasized his overriding concern that any earmark will be used as a ceiling on funding rather than as the floor it is intended to be. With the understanding that the 3-year, phased-in earmark would allow time to review AID's performance in relation to conservation

of biological diversity, the committee adopted the Evans-Lugar-Pell substitute and the bill was ordered to be reported favorably to the Senate by a vote of 16 to 0. Voting in the affirmative were Senators Lugar, Helms, Mathias, Boschwitz, Pressler, Murkowski, Trible, Evans, Pell, Biden, Sarbanes, Zorinsky, Cranston, Dodd, Eagleton and Kerry.

Background

In 1983, the Congress enacted the International Environmental Protection Act, authorized by Senator Pell. The key provision of the Act was to add a new section to the Foreign Assistance Act, section 119, entitled "Endangered Species." This provision presents congressional findings as to the magnitude of the threat of biological diversity and declares that the protection of natural ecosystems and wildlife habitats should be an important objective of U.S. development assistance. Section 119 authorizes the President to assist countries in protecting wildlife habitats and in developing sound wildlife management programs. It also requires special attention to establishing and maintaining wildlife sancutaries and parks, and to cataloging animal and plant species, especially in tropical environments. Finally, section 119 required that the Agency for International Development (AID) take the lead in developing a U.S. government-wide strategy to conserve biological diversity. This strategy was published in February, 1985.

There has been continuing concern within the environmental community over the pace of AID's implementation of section 119. In May of 1985, during Senate floor consideration of S. 960, the International Security and Development Cooperation Act of 1985 (PL 99-83), Senator Pell offered an amendment which proposed specific approaches to implement further the policies contained in Section 119 in relation to biological diversity. Senator Pell withdrew his amendment pending examination of the proposal by the committee.

During the March 19, 1986, committee hearing, the Office of Technology Assessment (OTA) discussed its on-going study of the issue of world-wide biological diversity. This study was commenced in October of 1984 at the request of several congressional committees, including the Foreign Relations Committee. As part of this study, on July 15, 1986, OTA transmitted to the committee a staff paper entitled "The Role of U.S. Development Assistance in Maintaining Biological Diversity." In discussing the activities of the Agency for International Development in relation to biological diversity, the paper notes that the issue is not ". . . whether supporting such activities is appropriate for AID, but the extent to which resources should be committed . . .".

Committee Comments

The International Environmental Protection Act as reflected in Section 119 of the Foreign Assistance Act was a response to concerns about the alarming rate of loss of species. According to some estimates, 20 percent of all species could be lost in the next century. The rate of loss is particularly acute in tropical environments where species-rich forests are rapidly disappearing. Many of the

species lost in tropical environments have not even been indentified or catalogued. This loss has both environmental and economic consequences. The loss of species can alter animal and plant population patterns and thus disrupt natural ecosystems.

Modern agriculture and the pharmaceutical industry are highly dependent on plants and animals to develop new hybrids and new drugs. Extinctions represent a potentially serious loss of genetic and biological resources.

During the March, 1986, hearing, witnesses from the environmental community unanimously endorsed the need for action on the pending legislation as a means of assuring implementation of section 119 in order to address this growing crisis.

The committee shares the judgment that this is a critical issue, not only for developing countries but for the United States as well. The extinction of species and their replacement by others is part of the evolutionary dynamic, but the balance between loss and replacement seems to have changed. The present rate of destruction and degradation of tropical forests and estimated extinction rates clearly indicate that human activity is causing a fundamental change in the Earth's biota and its capacity to respond to change. The committee supports the need to act to restore that balance and supports this legislation as a positive step toward that end.

The committee notes that, in enacting this legislation to enhance section 119, the Congress will be taking an affirmative and positive step to preserve species throughout the world. The positive approach incorporated in the new section 119 is an addition to, not a replacement for, other general duties under already existing law.

Funding requirements for fiscal years 1987 through 1989

New subsection 119(c) earmarks funds for fiscal years 1987, 1988, and 1989, to be spent pursuant to subsection 119(b). Subsection (b), which remains unchanged, directs U.S. AID to:

> assist countries in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs. Special efforts should be made to establish and maintain wildlife sanctuaries, reserves, and parks; to enact and enforce anti-poaching measures; and to identify, study and catalog animal and plant species.

One of the problems the committee encountered in considering this legislation was the difficulty in quantifying AID's level of response to section 119. The committee wishes to emphasize that AID-supported activities which fall outside the scope of subsection (b) should not be counted in complying with this earmark. Activities such as routine preparation of environmental profiles of aid-receiving countries or general environmental education should not be counted, therefore, unless they represent a clear response to an opportunity to preserve biological diversity. Biological diversity priorities obviously cannot be determined without good information concerning the status and distribution of species and ecosystems, however, and AID support for activities that specifically provide such information is a direct response to section 119 and may be counted.

In emphasizing the scope of section 119(b), the committee is aware of the complexity of attributing activities directly to implementation of section 119(b) and the need for some flexibility in this regard. The committee recognizes, for example, that a major issue in the conservation of biological diversity is the land tenure system of some recipient countries. While it is the clear intent of section 119(b) to assist developing countries in establishing conservation areas, land ownership and use often already reside with the central government. While the establishment of conservation areas may not require land acquisition in such cases, it will nevertheless require a strong commitment from the central government for the designation and management of such conservation areas. Consequently, AID support for government programs to identify and manage conservation areas is a clear and crucial response to section 119(b) and may, therefore, be counted in complying with the new minimum funding requirements.

The committee is concerned that a broader consensus has not developed as to the activities properly responsive to section 119(b). In view of past controversy over funding levels, however, the committee intends to carefully scrutinize not only the quantity but also the quality of the projects funded under this requirement in order to assess AID's responsiveness to the committee's concern over implementing section 119 as amended.

Country development strategy statements

New section 119(d) requires AID country development strategy statements (CDSS) or other country plans to include an analysis of actions necessary in that country to preserve biological diversity. In adopting this requirement, the committee questioned the advisability of applying the requirement world-wide rather than first targeting those countries of particular importance. It is clearly not the intent of the committee to impose an administrative burden on AID that will dilute, rather than enhance, the effectiveness of the Agency's approach to the issue. The committee strongly supports pursuing biological diversity projects in countries where our limited foreign assistance resources can be used to advantage. This section, however, is intended to stimulate world-wide AID Mission consideration of major needs for the conservation of biological diversity in developing countries and to help set priorities for the allocation of AID funds.

The committee intends that the analyses required by section 119(d) will provide a summary of major conservation issues and needs in each country, rather than a detailed technical assessment. For many developing nations, detailed technical assessments have already been developed either by the country government or by indigenous or international non-governmental organizations, such as the Nature Conservancy, International Union for the Conservation of Nature, and the World Wildlife Fund, or by other institutions such as the Food and Agriculture Organization and United Nations Environment Program. Each Mission should review and consider existing technical assessments from such sources as a basis for formulating their CDSS or country plan analyses. Missions may determine whether these plans could usefully be incorporated by reference into the CDSS or country plan.

In determining the level of detail with which each CDSS or country plan is to consider biological diversity issues, the committee expects AID Missions to exercise discretion on a country-by-country basis, taking into account the complexity and severity of biological diversity conditions in that country, the development priorities of the host country and practicality of implementing conservation programs in that country, and the availability and adequacy of preexisting assessments. The CDSS or country plan conservation analyses should be prepared in the normal course of plan revisions, except in those countries that AID views as raising especially urgent biological diversity issues. In these priority cases, the analyses should be completed within the next 2 years.

Section-by-Section Analysis

H.R. 2958 as reported to the Senate amends Section 119 of the Foreign Assistance Act to delete existing subsections 119(c) and 119(d) and to add new subsections 119(c) through 119(h).

New subsection 119(c) requires that of the funds available to carry out Chapter 1 of Part I of the Foreign Assistance Act (economic development assistance) not less than $2.5 million for fiscal year 1987, not less than $5 million for fiscal year 1988 and not less than $10 million for fiscal year 1989 be used for activities to promote biological diversity pursuant to subsection 119(b). This funding is to be used, to the fullest extent possible, for activities which were not funded prior to fiscal year 1987.

New subsection 119(d) requires that AID country development strategy statements (CDSS) or other country plans include analysis of actions necessary in a particular country to conserve biological diversity and analysis of the extent to which the proposed actions address the needs identified.

New subsection 119(e) calls for consultation with and involvement of local people whenever possible in carrying out activities under this section.

New subsection 119(f) requires, whenever feasible, the utilization of appropriate private and voluntary organizations, and international or regional or national nongovernmental organizations in carrying out activities under this section.

New subsection 119(g) requires the following specific action of the Administrator of the Agency for International Development in carrying out this section:

(1) cooperation with appropriate governmental and nongovernmental international organizations;

(2) use of the World Conservation Strategy as an overall guide;

(3) undertaking dialogues and exchanges of information with recipient countries stressing the benefits of conserving biological diversity as well as identifying policies contributing to loss of biological diversity;

(4) support for appropriate training and education efforts;

(5) encouragement of long-term agreements protecting ecosystems or other wildlife habitats;

(6) support for efforts identifying and surveying ecosystems for protection;

(7) cooperation with the relevant activities of other U.S. Government agencies;

(8) review and revision where necessary of AID's environmental regulations;

(9) ensuring that AID environmental profiles include information needed for conservation of biological diversity; and

(10) denial of any direct or indirect assistance for significantly degrade national parks or similar areas or introduce exotic plants or animals into such areas.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

The Foreign Assistance Act of 1961, as Amended

* * * * * * *

PART I

Chapter 1—Policy; Development Assistance Authorizations

Sec. 101. General Policy.—(a) * * *

* * * * * * *

Sec. 119. Endangered Species.—(a) * * *

* * * * * * *

[(c) The Administrator of the Agency for International Development, in conjunction with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the heads of other appropriate Government agencies, shall develop a United States strategy, including specific policies and programs, to protect and conserve biological diversity in developing countries.

[(d) Each annual report required by section 634(a) of this Act shall include, in a separate volume, a report on the implementation of this subsection. Not later than one year after the date of enactment of this section, the President shall submit a comprehensive report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the United States strategy to protect and conserve biological diversity in developing countries.]

(c) Of the funds available to carry out this part (excluding funds made available to carry out section 104(c)(2), relating to the Child Survival Fund)—

(1) for the fiscal year 1987, not less than $2,500,000,

(2) for the fiscal year 1988, not less than $5,000,000, and

(3) for the fiscal year 1989, not less than $10,000,000, .

shall be allocated for assistance pursuant to subsection (b) for activities which were not funded prior to fiscal year 1987. In addition,

the Agency for International Development shall, to the fullest extent possible, continue and increase assistance pursuant to subsection (b) for activities for which assistance was provided in fiscal years prior to fiscal year 1987.

(d) Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to conserve biological diversity, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(e) To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.

(f) Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located.

(g) The Administrator of the Agency for International Development shall—

(1) cooperate with appropriate international organizations, both governmental and nongovernmental;

(2) look to the World Conservation Strategy as an overall guide for actions to conserve biological diversity;

(3) engage in dialogues and exchanges of information with recipient countries which stress the importance of conserving biological diversity for the long-term economic benefit of those countries and which identify and focus on policies of those countries which directly or indirectly contribute to loss of biological diversity;

(4) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity;

(5) whenever possible, enter into long-term agreements in which the recipient country agrees to protect ecosystems or other wildlife habitats recommended for protection by relevant governmental or nongovernmental organizations or as a result of activities undertaken pursuant to paragraph (6), and the United States agrees to provide additional assistance necessary for the establishment and maintenance of such protected areas;

(6) support, as necessary and in cooperation with the appropriate governmental and nongovernmental organizations, efforts to identify and survey ecosystems in recipient countries worthy of protection;

(7) cooperate with and support the relevant efforts of other agencies of the United States Government, including the United States Fish and Wildlife Service, the National Park Service, the Forest Service, and the Peace Corps;

(8) review the Agency's environmental regulations and revise them as necessary to ensure that ongoing and proposed actions by the Agency do not inadvertently endanger wildlife species or their critical habitats, harm protected areas, or have other adverse impacts on biological diversity (and shall report to the

Congress within a year after the date of enactment of this paragraph on the actions taken pursuant to this paragraph);

(9) ensure that environmental profiles sponsored by the Agency include information needed for conservation of biological diversity; and

(10) deny any direct or indirect assistance under this chapter for actions which significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.

COST ESTIMATE

Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate requires that committee reports on bills or joint resolutions contain a cost estimate for such legislation in the fiscal year it is reported and in each of the following 5 years. The Congressional Budget Office has prepared the following estimate for this bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 1986.

Hon. RICHARD LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2958, to amend the Foreign Assistance Act of 1961 to protect biological diversity in developing countries, as ordered reported by the Senate Committee on Foreign Relations on September 9, 1986.

This bill earmarks $2.5 million in fiscal year 1987, $5 million in fiscal year 1988, and $10 million in fiscal year 1989 for activities to protect biological diversity in developing countries. The impact of these earmarks on outlays are uncertain because they are dependent on future legislative and administrative actions.

For fiscal year 1987, in which authorizations for AID programs have been enacted, the earmarked $2.5 million is expected to result in outlays of $300,000. However because this earmarking of funds ultimately will result in other programs within AID receiving less funding, the net effect of this earmark on outlays will be the difference between the outlays arising from the new activities designed to protect biological diversity and the outlays which would have resulted from the activities which will be scaled back. Because it is not known which activities will receive less funding, this net effect is not possible to estimate.

For fiscal years 1988 and 1989, outlays are uncertain for two reasons. First, we do not know the second and third year outlay impact of programs scaled back in 1987. Second, because authorizations for AID have not been enacted for fiscal years 1988 and 1989, it is not possible to estimate the net effect, if any, of the earmarks on outlays.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

Evaluation of Regulatory Impact

In accordance with Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the Committee has concluded that there is no regulatory impact from this legislation.

ADDITIONAL VIEWS OF SENATOR NANCY KASSEBAUM

The Committee markup of this legislation was held on the day of my father's 99th birthday. I thus was unable to participate in the markup. If I had been able to participate, I would have raised a number of questions about this legislation.

During extensive hearings I chaired in April on the foreign aid program, witnesses from AID and from the private sector put forward persuasive arguments that Congress shares some of the responsibility for the organizational inefficiencies and programmatic inadequacies of the aid program. We have burdened our economic development programs with a confusing mishmash of priorities and an ever-expanding paperwork burden. The legislation reported by the Committee, it seems to me, only adds to the confusion and the paperwork burden.

If I understand the legislation correctly, the second highest priority for AID if the legislation is enacted will be the protection of biological diversity and game parks. The earmark of $2.5 million for the fiscal year 1987 will be doubled and doubled again over the succeeding two fiscal years reaching a $10 million level in 1989. The decision to earmark funds from a declining foreign aid budget for these objectives was reached without a clear indication of which projects should be reduced or eliminated to provide the new funding for these activities. Already we are faced with the very real prospect that economic assistance to the countries of sub-Saharan Africa will be faced with deep cuts in the coming fiscal year. In light of the fiscal constraints on the foreign aid program, I believe that additional earmarks for new programs should be adopted only if the sponsors of the legislation identify which specific programs and projects are to be eliminated.

The bill also requires that AID country development strategy statements and other country plans include an analysis of the actions necessary to preserve the biological diversity of all recipient countries. I question whether this world-wide legal requirement for country plans is appropriate given the number of countries that have minimal aid programs. This additional reporting and analysis requirement, it seems to me, contradicts the efforts of many in Congress to reduce AID's operating expenses in order to increase funding for needed development activities. Over time, we have burdened AID with such requirements without giving serious thought to the long-term effect of such decisions on the functioning of the agency. It would be preferable, I believe, to require that aid program activities within a country be of such a magnitude as to justify consideration of such an additional program. It would be reasonable, I believe, not to require that country programs of minimal size, less than $20 million annually, meet this requirement.

I am aware of the importance of this issue to the long-term prospects of many countries in the developing world. Having recently

visited several countries in sub-Saharan Africa, I am especially aware of the magnitude of the human suffering in those countries and the very difficult decisions which have to be reached on the allocation of scarce resources. I am not convinced that without a great deal of pressure, all African countries would be willing to provide the 25% local government funding that these projects require under our aid legislation. Many of these countries face urgent human survival needs and would be reluctant to provide funding from strained government budgets for projects of this nature. With these concerns in mind, it seems to me that this bill should be set aside in the rush of the final days of the 99th Congress, and the issue revisited during the Congress' consideration of the overall aid legislation next year. By then and in such a context, the relative merits of this legislation can be best weighed.

○